



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB5813

Introduced 07/31/06, by Rep. Terry R. Parke

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/16-1.3  
730 ILCS 5/5-5-3

from Ch. 38, par. 16-1.3  
from Ch. 38, par. 1005-5-3

Amends the Criminal Code of 1961 and the Unified Code of Corrections. Provides that a person convicted of financial exploitation of an elderly person or a person with a disability shall be sentenced to a minimum term of imprisonment of one year for a Class 4 felony violation, 2 years for a Class 3 felony violation, 3 years for a Class 2 felony violation, and 4 years for a Class 1 felony violation.

LRB094 21038 RLC 59364 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by changing  
5 Section 16-1.3 as follows:

6 (720 ILCS 5/16-1.3) (from Ch. 38, par. 16-1.3)

7 Sec. 16-1.3. Financial exploitation of an elderly person or  
8 a person with a disability.

9 (a) A person commits the offense of financial exploitation  
10 of an elderly person or a person with a disability when he or  
11 she stands in a position of trust or confidence with the  
12 elderly person or a person with a disability and he or she  
13 knowingly and by deception or intimidation obtains control over  
14 the property of an elderly person or a person with a disability  
15 or illegally uses the assets or resources of an elderly person  
16 or a person with a disability. The illegal use of the assets or  
17 resources of an elderly person or a person with a disability  
18 includes, but is not limited to, the misappropriation of those  
19 assets or resources by undue influence, breach of a fiduciary  
20 relationship, fraud, deception, extortion, or use of the assets  
21 or resources contrary to law.

22 Financial exploitation of an elderly person or a person  
23 with a disability is a Class 4 felony for which the person  
24 shall be sentenced to a minimum term of imprisonment of one  
25 year if the value of the property is \$300 or less, a Class 3  
26 felony for which the person shall be sentenced to a minimum  
27 term of imprisonment of 2 years if the value of the property is  
28 more than \$300 but less than \$5,000, a Class 2 felony for which  
29 the person shall be sentenced to a minimum term of imprisonment  
30 of 3 years if the value of the property is \$5,000 or more but  
31 less than \$100,000 and a Class 1 felony for which the person  
32 shall be sentenced to a minimum term of imprisonment of 4 years

1 if the value of the property is \$100,000 or more or if the  
2 elderly person is over 70 years of age and the value of the  
3 property is \$15,000 or more or if the elderly person is 80  
4 years of age or older and the value of the property is \$5,000  
5 or more.

6 (b) For purposes of this Section:

7 (1) "Elderly person" means a person 60 years of age or  
8 older.

9 (2) "Person with a disability" means a person who  
10 suffers from a permanent physical or mental impairment  
11 resulting from disease, injury, functional disorder or  
12 congenital condition that impairs the individual's mental  
13 or physical ability to independently manage his or her  
14 property or financial resources, or both.

15 (3) "Intimidation" means the communication to an  
16 elderly person or a person with a disability that he or she  
17 shall be deprived of food and nutrition, shelter,  
18 prescribed medication or medical care and treatment.

19 (4) "Deception" means, in addition to its meaning as  
20 defined in Section 15-4 of this Code, a misrepresentation  
21 or concealment of material fact relating to the terms of a  
22 contract or agreement entered into with the elderly person  
23 or person with a disability or to the existing or  
24 pre-existing condition of any of the property involved in  
25 such contract or agreement; or the use or employment of any  
26 misrepresentation, false pretense or false promise in  
27 order to induce, encourage or solicit the elderly person or  
28 person with a disability to enter into a contract or  
29 agreement.

30 (c) For purposes of this Section, a person stands in a  
31 position of trust and confidence with an elderly person or  
32 person with a disability when he (1) is a parent, spouse, adult  
33 child or other relative by blood or marriage of the elderly  
34 person or person with a disability, (2) is a joint tenant or  
35 tenant in common with the elderly person or person with a  
36 disability, (3) has a legal or fiduciary relationship with the

1 elderly person or person with a disability, or (4) is a  
2 financial planning or investment professional.

3 (d) Nothing in this Section shall be construed to limit the  
4 remedies available to the victim under the Illinois Domestic  
5 Violence Act of 1986.

6 (e) Nothing in this Section shall be construed to impose  
7 criminal liability on a person who has made a good faith effort  
8 to assist the elderly person or person with a disability in the  
9 management of his or her property, but through no fault of his  
10 or her own has been unable to provide such assistance.

11 (f) It shall not be a defense to financial exploitation of  
12 an elderly person or person with a disability that the accused  
13 reasonably believed that the victim was not an elderly person  
14 or person with a disability.

15 (g) Civil Liability. A person who is charged by information  
16 or indictment with the offense of financial exploitation of an  
17 elderly person or person with a disability and who fails or  
18 refuses to return the victim's property within 60 days  
19 following a written demand from the victim or the victim's  
20 legal representative shall be liable to the victim or to the  
21 estate of the victim in damages of treble the amount of the  
22 value of the property obtained, plus reasonable attorney fees  
23 and court costs. The burden of proof that the defendant  
24 unlawfully obtained the victim's property shall be by a  
25 preponderance of the evidence. This subsection shall be  
26 operative whether or not the defendant has been convicted of  
27 the offense.

28 (Source: P.A. 92-808, eff. 8-21-02; 93-301, eff. 1-1-04.)

29 Section 10. The Unified Code of Corrections is amended by  
30 changing Section 5-5-3 as follows:

31 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

32 Sec. 5-5-3. Disposition.

33 (a) Except as provided in Section 11-501 of the Illinois  
34 Vehicle Code, every person convicted of an offense shall be

1 sentenced as provided in this Section.

2 (b) The following options shall be appropriate  
3 dispositions, alone or in combination, for all felonies and  
4 misdemeanors other than those identified in subsection (c) of  
5 this Section:

6 (1) A period of probation.

7 (2) A term of periodic imprisonment.

8 (3) A term of conditional discharge.

9 (4) A term of imprisonment.

10 (5) An order directing the offender to clean up and  
11 repair the damage, if the offender was convicted under  
12 paragraph (h) of Section 21-1 of the Criminal Code of 1961  
13 (now repealed).

14 (6) A fine.

15 (7) An order directing the offender to make restitution  
16 to the victim under Section 5-5-6 of this Code.

17 (8) A sentence of participation in a county impact  
18 incarceration program under Section 5-8-1.2 of this Code.

19 (9) A term of imprisonment in combination with a term  
20 of probation when the offender has been admitted into a  
21 drug court program under Section 20 of the Drug Court  
22 Treatment Act.

23 Neither a fine nor restitution shall be the sole  
24 disposition for a felony and either or both may be imposed only  
25 in conjunction with another disposition.

26 (c) (1) When a defendant is found guilty of first degree  
27 murder the State may either seek a sentence of imprisonment  
28 under Section 5-8-1 of this Code, or where appropriate seek  
29 a sentence of death under Section 9-1 of the Criminal Code  
30 of 1961.

31 (2) A period of probation, a term of periodic  
32 imprisonment or conditional discharge shall not be imposed  
33 for the following offenses. The court shall sentence the  
34 offender to not less than the minimum term of imprisonment  
35 set forth in this Code for the following offenses, and may  
36 order a fine or restitution or both in conjunction with

1 such term of imprisonment:

2 (A) First degree murder where the death penalty is  
3 not imposed.

4 (B) Attempted first degree murder.

5 (C) A Class X felony.

6 (D) A violation of Section 401.1 or 407 of the  
7 Illinois Controlled Substances Act, or a violation of  
8 subdivision (c) (1) or (c) (2) of Section 401 of that Act  
9 which relates to more than 5 grams of a substance  
10 containing heroin or cocaine or an analog thereof.

11 (E) A violation of Section 5.1 or 9 of the Cannabis  
12 Control Act.

13 (F) A Class 2 or greater felony if the offender had  
14 been convicted of a Class 2 or greater felony within 10  
15 years of the date on which the offender committed the  
16 offense for which he or she is being sentenced, except  
17 as otherwise provided in Section 40-10 of the  
18 Alcoholism and Other Drug Abuse and Dependency Act.

19 (F-5) A violation of Section 24-1, 24-1.1, or  
20 24-1.6 of the Criminal Code of 1961 for which  
21 imprisonment is prescribed in those Sections.

22 (G) Residential burglary, except as otherwise  
23 provided in Section 40-10 of the Alcoholism and Other  
24 Drug Abuse and Dependency Act.

25 (H) Criminal sexual assault.

26 (I) Aggravated battery of a senior citizen.

27 (J) A forcible felony if the offense was related to  
28 the activities of an organized gang.

29 Before July 1, 1994, for the purposes of this  
30 paragraph, "organized gang" means an association of 5  
31 or more persons, with an established hierarchy, that  
32 encourages members of the association to perpetrate  
33 crimes or provides support to the members of the  
34 association who do commit crimes.

35 Beginning July 1, 1994, for the purposes of this  
36 paragraph, "organized gang" has the meaning ascribed

1 to it in Section 10 of the Illinois Streetgang  
2 Terrorism Omnibus Prevention Act.

3 (K) Vehicular hijacking.

4 (L) A second or subsequent conviction for the  
5 offense of hate crime when the underlying offense upon  
6 which the hate crime is based is felony aggravated  
7 assault or felony mob action.

8 (M) A second or subsequent conviction for the  
9 offense of institutional vandalism if the damage to the  
10 property exceeds \$300.

11 (N) A Class 3 felony violation of paragraph (1) of  
12 subsection (a) of Section 2 of the Firearm Owners  
13 Identification Card Act.

14 (O) A violation of Section 12-6.1 of the Criminal  
15 Code of 1961.

16 (P) A violation of paragraph (1), (2), (3), (4),  
17 (5), or (7) of subsection (a) of Section 11-20.1 of the  
18 Criminal Code of 1961.

19 (Q) A violation of Section 20-1.2 or 20-1.3 of the  
20 Criminal Code of 1961.

21 (R) A violation of Section 24-3A of the Criminal  
22 Code of 1961.

23 (S) (Blank).

24 (T) A second or subsequent violation of the  
25 Methamphetamine Control and Community Protection Act.

26 (3) (Blank).

27 (4) A minimum term of imprisonment of not less than 10  
28 consecutive days or 30 days of community service shall be  
29 imposed for a violation of paragraph (c) of Section 6-303  
30 of the Illinois Vehicle Code.

31 (4.1) (Blank).

32 (4.2) Except as provided in paragraph (4.3) of this  
33 subsection (c), a minimum of 100 hours of community service  
34 shall be imposed for a second violation of Section 6-303 of  
35 the Illinois Vehicle Code.

36 (4.3) A minimum term of imprisonment of 30 days or 300

1 hours of community service, as determined by the court,  
2 shall be imposed for a second violation of subsection (c)  
3 of Section 6-303 of the Illinois Vehicle Code.

4 (4.4) Except as provided in paragraph (4.5) and  
5 paragraph (4.6) of this subsection (c), a minimum term of  
6 imprisonment of 30 days or 300 hours of community service,  
7 as determined by the court, shall be imposed for a third or  
8 subsequent violation of Section 6-303 of the Illinois  
9 Vehicle Code.

10 (4.5) A minimum term of imprisonment of 30 days shall  
11 be imposed for a third violation of subsection (c) of  
12 Section 6-303 of the Illinois Vehicle Code.

13 (4.6) A minimum term of imprisonment of 180 days shall  
14 be imposed for a fourth or subsequent violation of  
15 subsection (c) of Section 6-303 of the Illinois Vehicle  
16 Code.

17 (4.7) A minimum term of imprisonment shall be imposed  
18 for a violation of Section 16-1.3 of the Criminal Code of  
19 1961 as provided in that Section.

20 (5) The court may sentence an offender convicted of a  
21 business offense or a petty offense or a corporation or  
22 unincorporated association convicted of any offense to:

23 (A) a period of conditional discharge;

24 (B) a fine;

25 (C) make restitution to the victim under Section  
26 5-5-6 of this Code.

27 (5.1) In addition to any penalties imposed under  
28 paragraph (5) of this subsection (c), and except as  
29 provided in paragraph (5.2) or (5.3), a person convicted of  
30 violating subsection (c) of Section 11-907 of the Illinois  
31 Vehicle Code shall have his or her driver's license,  
32 permit, or privileges suspended for at least 90 days but  
33 not more than one year, if the violation resulted in damage  
34 to the property of another person.

35 (5.2) In addition to any penalties imposed under  
36 paragraph (5) of this subsection (c), and except as

1 provided in paragraph (5.3), a person convicted of  
2 violating subsection (c) of Section 11-907 of the Illinois  
3 Vehicle Code shall have his or her driver's license,  
4 permit, or privileges suspended for at least 180 days but  
5 not more than 2 years, if the violation resulted in injury  
6 to another person.

7 (5.3) In addition to any penalties imposed under  
8 paragraph (5) of this subsection (c), a person convicted of  
9 violating subsection (c) of Section 11-907 of the Illinois  
10 Vehicle Code shall have his or her driver's license,  
11 permit, or privileges suspended for 2 years, if the  
12 violation resulted in the death of another person.

13 (6) In no case shall an offender be eligible for a  
14 disposition of probation or conditional discharge for a  
15 Class 1 felony committed while he was serving a term of  
16 probation or conditional discharge for a felony.

17 (7) When a defendant is adjudged a habitual criminal  
18 under Article 33B of the Criminal Code of 1961, the court  
19 shall sentence the defendant to a term of natural life  
20 imprisonment.

21 (8) When a defendant, over the age of 21 years, is  
22 convicted of a Class 1 or Class 2 felony, after having  
23 twice been convicted in any state or federal court of an  
24 offense that contains the same elements as an offense now  
25 classified in Illinois as a Class 2 or greater Class felony  
26 and such charges are separately brought and tried and arise  
27 out of different series of acts, such defendant shall be  
28 sentenced as a Class X offender. This paragraph shall not  
29 apply unless (1) the first felony was committed after the  
30 effective date of this amendatory Act of 1977; and (2) the  
31 second felony was committed after conviction on the first;  
32 and (3) the third felony was committed after conviction on  
33 the second. A person sentenced as a Class X offender under  
34 this paragraph is not eligible to apply for treatment as a  
35 condition of probation as provided by Section 40-10 of the  
36 Alcoholism and Other Drug Abuse and Dependency Act.

1           (9) A defendant convicted of a second or subsequent  
2 offense of ritualized abuse of a child may be sentenced to  
3 a term of natural life imprisonment.

4           (10) (Blank).

5           (11) The court shall impose a minimum fine of \$1,000  
6 for a first offense and \$2,000 for a second or subsequent  
7 offense upon a person convicted of or placed on supervision  
8 for battery when the individual harmed was a sports  
9 official or coach at any level of competition and the act  
10 causing harm to the sports official or coach occurred  
11 within an athletic facility or within the immediate  
12 vicinity of the athletic facility at which the sports  
13 official or coach was an active participant of the athletic  
14 contest held at the athletic facility. For the purposes of  
15 this paragraph (11), "sports official" means a person at an  
16 athletic contest who enforces the rules of the contest,  
17 such as an umpire or referee; "athletic facility" means an  
18 indoor or outdoor playing field or recreational area where  
19 sports activities are conducted; and "coach" means a person  
20 recognized as a coach by the sanctioning authority that  
21 conducted the sporting event.

22           (12) A person may not receive a disposition of court  
23 supervision for a violation of Section 5-16 of the Boat  
24 Registration and Safety Act if that person has previously  
25 received a disposition of court supervision for a violation  
26 of that Section.

27           (d) In any case in which a sentence originally imposed is  
28 vacated, the case shall be remanded to the trial court. The  
29 trial court shall hold a hearing under Section 5-4-1 of the  
30 Unified Code of Corrections which may include evidence of the  
31 defendant's life, moral character and occupation during the  
32 time since the original sentence was passed. The trial court  
33 shall then impose sentence upon the defendant. The trial court  
34 may impose any sentence which could have been imposed at the  
35 original trial subject to Section 5-5-4 of the Unified Code of  
36 Corrections. If a sentence is vacated on appeal or on

1 collateral attack due to the failure of the trier of fact at  
2 trial to determine beyond a reasonable doubt the existence of a  
3 fact (other than a prior conviction) necessary to increase the  
4 punishment for the offense beyond the statutory maximum  
5 otherwise applicable, either the defendant may be re-sentenced  
6 to a term within the range otherwise provided or, if the State  
7 files notice of its intention to again seek the extended  
8 sentence, the defendant shall be afforded a new trial.

9 (e) In cases where prosecution for aggravated criminal  
10 sexual abuse under Section 12-16 of the Criminal Code of 1961  
11 results in conviction of a defendant who was a family member of  
12 the victim at the time of the commission of the offense, the  
13 court shall consider the safety and welfare of the victim and  
14 may impose a sentence of probation only where:

15 (1) the court finds (A) or (B) or both are appropriate:

16 (A) the defendant is willing to undergo a court  
17 approved counseling program for a minimum duration of 2  
18 years; or

19 (B) the defendant is willing to participate in a  
20 court approved plan including but not limited to the  
21 defendant's:

22 (i) removal from the household;

23 (ii) restricted contact with the victim;

24 (iii) continued financial support of the  
25 family;

26 (iv) restitution for harm done to the victim;

27 and

28 (v) compliance with any other measures that  
29 the court may deem appropriate; and

30 (2) the court orders the defendant to pay for the  
31 victim's counseling services, to the extent that the court  
32 finds, after considering the defendant's income and  
33 assets, that the defendant is financially capable of paying  
34 for such services, if the victim was under 18 years of age  
35 at the time the offense was committed and requires  
36 counseling as a result of the offense.

1 Probation may be revoked or modified pursuant to Section  
2 5-6-4; except where the court determines at the hearing that  
3 the defendant violated a condition of his or her probation  
4 restricting contact with the victim or other family members or  
5 commits another offense with the victim or other family  
6 members, the court shall revoke the defendant's probation and  
7 impose a term of imprisonment.

8 For the purposes of this Section, "family member" and  
9 "victim" shall have the meanings ascribed to them in Section  
10 12-12 of the Criminal Code of 1961.

11 (f) This Article shall not deprive a court in other  
12 proceedings to order a forfeiture of property, to suspend or  
13 cancel a license, to remove a person from office, or to impose  
14 any other civil penalty.

15 (g) Whenever a defendant is convicted of an offense under  
16 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,  
17 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16  
18 of the Criminal Code of 1961, the defendant shall undergo  
19 medical testing to determine whether the defendant has any  
20 sexually transmissible disease, including a test for infection  
21 with human immunodeficiency virus (HIV) or any other identified  
22 causative agent of acquired immunodeficiency syndrome (AIDS).  
23 Any such medical test shall be performed only by appropriately  
24 licensed medical practitioners and may include an analysis of  
25 any bodily fluids as well as an examination of the defendant's  
26 person. Except as otherwise provided by law, the results of  
27 such test shall be kept strictly confidential by all medical  
28 personnel involved in the testing and must be personally  
29 delivered in a sealed envelope to the judge of the court in  
30 which the conviction was entered for the judge's inspection in  
31 camera. Acting in accordance with the best interests of the  
32 victim and the public, the judge shall have the discretion to  
33 determine to whom, if anyone, the results of the testing may be  
34 revealed. The court shall notify the defendant of the test  
35 results. The court shall also notify the victim if requested by  
36 the victim, and if the victim is under the age of 15 and if

1 requested by the victim's parents or legal guardian, the court  
2 shall notify the victim's parents or legal guardian of the test  
3 results. The court shall provide information on the  
4 availability of HIV testing and counseling at Department of  
5 Public Health facilities to all parties to whom the results of  
6 the testing are revealed and shall direct the State's Attorney  
7 to provide the information to the victim when possible. A  
8 State's Attorney may petition the court to obtain the results  
9 of any HIV test administered under this Section, and the court  
10 shall grant the disclosure if the State's Attorney shows it is  
11 relevant in order to prosecute a charge of criminal  
12 transmission of HIV under Section 12-16.2 of the Criminal Code  
13 of 1961 against the defendant. The court shall order that the  
14 cost of any such test shall be paid by the county and may be  
15 taxed as costs against the convicted defendant.

16 (g-5) When an inmate is tested for an airborne communicable  
17 disease, as determined by the Illinois Department of Public  
18 Health including but not limited to tuberculosis, the results  
19 of the test shall be personally delivered by the warden or his  
20 or her designee in a sealed envelope to the judge of the court  
21 in which the inmate must appear for the judge's inspection in  
22 camera if requested by the judge. Acting in accordance with the  
23 best interests of those in the courtroom, the judge shall have  
24 the discretion to determine what if any precautions need to be  
25 taken to prevent transmission of the disease in the courtroom.

26 (h) Whenever a defendant is convicted of an offense under  
27 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the  
28 defendant shall undergo medical testing to determine whether  
29 the defendant has been exposed to human immunodeficiency virus  
30 (HIV) or any other identified causative agent of acquired  
31 immunodeficiency syndrome (AIDS). Except as otherwise provided  
32 by law, the results of such test shall be kept strictly  
33 confidential by all medical personnel involved in the testing  
34 and must be personally delivered in a sealed envelope to the  
35 judge of the court in which the conviction was entered for the  
36 judge's inspection in camera. Acting in accordance with the

1 best interests of the public, the judge shall have the  
2 discretion to determine to whom, if anyone, the results of the  
3 testing may be revealed. The court shall notify the defendant  
4 of a positive test showing an infection with the human  
5 immunodeficiency virus (HIV). The court shall provide  
6 information on the availability of HIV testing and counseling  
7 at Department of Public Health facilities to all parties to  
8 whom the results of the testing are revealed and shall direct  
9 the State's Attorney to provide the information to the victim  
10 when possible. A State's Attorney may petition the court to  
11 obtain the results of any HIV test administered under this  
12 Section, and the court shall grant the disclosure if the  
13 State's Attorney shows it is relevant in order to prosecute a  
14 charge of criminal transmission of HIV under Section 12-16.2 of  
15 the Criminal Code of 1961 against the defendant. The court  
16 shall order that the cost of any such test shall be paid by the  
17 county and may be taxed as costs against the convicted  
18 defendant.

19 (i) All fines and penalties imposed under this Section for  
20 any violation of Chapters 3, 4, 6, and 11 of the Illinois  
21 Vehicle Code, or a similar provision of a local ordinance, and  
22 any violation of the Child Passenger Protection Act, or a  
23 similar provision of a local ordinance, shall be collected and  
24 disbursed by the circuit clerk as provided under Section 27.5  
25 of the Clerks of Courts Act.

26 (j) In cases when prosecution for any violation of Section  
27 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,  
28 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,  
29 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal  
30 Code of 1961, any violation of the Illinois Controlled  
31 Substances Act, any violation of the Cannabis Control Act, or  
32 any violation of the Methamphetamine Control and Community  
33 Protection Act results in conviction, a disposition of court  
34 supervision, or an order of probation granted under Section 10  
35 of the Cannabis Control Act, Section 410 of the Illinois  
36 Controlled Substance Act, or Section 70 of the Methamphetamine

1 Control and Community Protection Act of a defendant, the court  
2 shall determine whether the defendant is employed by a facility  
3 or center as defined under the Child Care Act of 1969, a public  
4 or private elementary or secondary school, or otherwise works  
5 with children under 18 years of age on a daily basis. When a  
6 defendant is so employed, the court shall order the Clerk of  
7 the Court to send a copy of the judgment of conviction or order  
8 of supervision or probation to the defendant's employer by  
9 certified mail. If the employer of the defendant is a school,  
10 the Clerk of the Court shall direct the mailing of a copy of  
11 the judgment of conviction or order of supervision or probation  
12 to the appropriate regional superintendent of schools. The  
13 regional superintendent of schools shall notify the State Board  
14 of Education of any notification under this subsection.

15 (j-5) A defendant at least 17 years of age who is convicted  
16 of a felony and who has not been previously convicted of a  
17 misdemeanor or felony and who is sentenced to a term of  
18 imprisonment in the Illinois Department of Corrections shall as  
19 a condition of his or her sentence be required by the court to  
20 attend educational courses designed to prepare the defendant  
21 for a high school diploma and to work toward a high school  
22 diploma or to work toward passing the high school level Test of  
23 General Educational Development (GED) or to work toward  
24 completing a vocational training program offered by the  
25 Department of Corrections. If a defendant fails to complete the  
26 educational training required by his or her sentence during the  
27 term of incarceration, the Prisoner Review Board shall, as a  
28 condition of mandatory supervised release, require the  
29 defendant, at his or her own expense, to pursue a course of  
30 study toward a high school diploma or passage of the GED test.  
31 The Prisoner Review Board shall revoke the mandatory supervised  
32 release of a defendant who wilfully fails to comply with this  
33 subsection (j-5) upon his or her release from confinement in a  
34 penal institution while serving a mandatory supervised release  
35 term; however, the inability of the defendant after making a  
36 good faith effort to obtain financial aid or pay for the

1 educational training shall not be deemed a wilful failure to  
2 comply. The Prisoner Review Board shall recommit the defendant  
3 whose mandatory supervised release term has been revoked under  
4 this subsection (j-5) as provided in Section 3-3-9. This  
5 subsection (j-5) does not apply to a defendant who has a high  
6 school diploma or has successfully passed the GED test. This  
7 subsection (j-5) does not apply to a defendant who is  
8 determined by the court to be developmentally disabled or  
9 otherwise mentally incapable of completing the educational or  
10 vocational program.

11 (k) A court may not impose a sentence or disposition for a  
12 felony or misdemeanor that requires the defendant to be  
13 implanted or injected with or to use any form of birth control.

14 (l) (A) Except as provided in paragraph (C) of subsection  
15 (l), whenever a defendant, who is an alien as defined by  
16 the Immigration and Nationality Act, is convicted of any  
17 felony or misdemeanor offense, the court after sentencing  
18 the defendant may, upon motion of the State's Attorney,  
19 hold sentence in abeyance and remand the defendant to the  
20 custody of the Attorney General of the United States or his  
21 or her designated agent to be deported when:

22 (1) a final order of deportation has been issued  
23 against the defendant pursuant to proceedings under  
24 the Immigration and Nationality Act, and

25 (2) the deportation of the defendant would not  
26 deprecate the seriousness of the defendant's conduct  
27 and would not be inconsistent with the ends of justice.

28 Otherwise, the defendant shall be sentenced as  
29 provided in this Chapter V.

30 (B) If the defendant has already been sentenced for a  
31 felony or misdemeanor offense, or has been placed on  
32 probation under Section 10 of the Cannabis Control Act,  
33 Section 410 of the Illinois Controlled Substances Act, or  
34 Section 70 of the Methamphetamine Control and Community  
35 Protection Act, the court may, upon motion of the State's  
36 Attorney to suspend the sentence imposed, commit the

1 defendant to the custody of the Attorney General of the  
2 United States or his or her designated agent when:

3 (1) a final order of deportation has been issued  
4 against the defendant pursuant to proceedings under  
5 the Immigration and Nationality Act, and

6 (2) the deportation of the defendant would not  
7 deprecate the seriousness of the defendant's conduct  
8 and would not be inconsistent with the ends of justice.

9 (C) This subsection (1) does not apply to offenders who  
10 are subject to the provisions of paragraph (2) of  
11 subsection (a) of Section 3-6-3.

12 (D) Upon motion of the State's Attorney, if a defendant  
13 sentenced under this Section returns to the jurisdiction of  
14 the United States, the defendant shall be recommitted to  
15 the custody of the county from which he or she was  
16 sentenced. Thereafter, the defendant shall be brought  
17 before the sentencing court, which may impose any sentence  
18 that was available under Section 5-5-3 at the time of  
19 initial sentencing. In addition, the defendant shall not be  
20 eligible for additional good conduct credit for  
21 meritorious service as provided under Section 3-6-6.

22 (m) A person convicted of criminal defacement of property  
23 under Section 21-1.3 of the Criminal Code of 1961, in which the  
24 property damage exceeds \$300 and the property damaged is a  
25 school building, shall be ordered to perform community service  
26 that may include cleanup, removal, or painting over the  
27 defacement.

28 (n) The court may sentence a person convicted of a  
29 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal  
30 Code of 1961 (i) to an impact incarceration program if the  
31 person is otherwise eligible for that program under Section  
32 5-8-1.1, (ii) to community service, or (iii) if the person is  
33 an addict or alcoholic, as defined in the Alcoholism and Other  
34 Drug Abuse and Dependency Act, to a substance or alcohol abuse  
35 program licensed under that Act.

36 (Source: P.A. 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,

1 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,  
2 eff. 1-1-04; 93-694, eff. 7-9-04; 93-782, eff. 1-1-05; 93-800,  
3 eff. 1-1-05; 93-1014, eff. 1-1-05; 94-72, eff. 1-1-06; 94-556,  
4 eff. 9-11-05; revised 8-19-05.)